

SUMMONS

In the Circuit Court of Logan County, West Virginia

LORI D. JUSTICE,

Plaintiff, individually, and on behalf of
a class of similarly-situated persons,

v.

Civil Action No. 17-C-55
Hon. Joshua Butcher, Judge

CNA NATIONAL WARRANTY CORPORATION,
an Arizona foreign corporation,

Defendant.

CNA NATIONAL WARRANTY CORPORATION
C/O CT Corporation System
3800 North Central Avenue
Suite 460
Phoenix, AZ 85012

To The Above Named Defendant(s):

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon Jonathan R. Marshall and Maigreade B. Burrus, Attorneys at Law and the law firm Bailey & Glasser, LLP, Plaintiff's attorneys, whose address is 209 Capitol Street, Charleston, West Virginia 25301, an answer, including any related counterclaim you may have, to the complaint filed against you in the above-styled action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred for asserting in another action any claim you may have asserted by counterclaim in the above-styled civil action.

Dated: February 17, 2017



Clerk of Court

EXHIBIT

B

IN THE CIRCUIT COURT OF LOGAN COUNTY, WEST VIRGINIA

LORI D. JUSTICE,

**Plaintiff, individually, and on behalf of
a class of similarly-situated persons,**

v.

Civil Action No. 17-C-55

Judge: Butcher

**CNA NATIONAL WARRANTY CORPORATION,
an Arizona foreign corporation,**

Defendant.

COMPLAINT

1. This is an action against CNA National Warranty Corporation arising from Defendant's unlawful sale of insurance in the state of West Virginia. Specifically, by collecting premiums to which it was not entitled and selling an insurance product while not licensed to sell such a product, CNA National Warranty Corporation made fraudulent, deceptive or misleading representations and engaged in unfair or deceptive acts or practices. W. Va. Code § 46A-2-127 and §§ 46A-6-102, -104, and -106. Plaintiff brings this action to enforce West Virginia law and to stop these abusive practices.

PARTIES

2. Plaintiff Lori D. Justice is a resident and citizen of Logan County, West Virginia.

3. Defendant CNA National Warranty Corporation is a corporation organized under the laws of the state of Arizona.

RECEIVED & FILED
2017 FEB -9 P 3:19
CIRCUIT CLERK
LOGAN COUNTY

FACTS

4. On August 13, 2014, Plaintiff Lori D. Justice purchased a 2012 Ford Fusion from Thornhill Group, Inc. d/b/a Thornhill Ford Lincoln ("Thornhill") in Logan, West Virginia.

5. As part of the purchase transaction, Plaintiff Lori D. Justice also purchased so-called "Gap Insurance" from Thornhill, through Defendant CNA National Warranty Corporation. Plaintiff Lori D. Justice paid Nine Hundred 00/100 Dollars (\$900.00) to CNA National Warranty Corporation for the insurance coverage.

6. In order to secure the aforesaid "Gap Insurance," Plaintiff Lori D. Justice entered into a "Guaranteed Auto Protection GAP Advantage Program" or "Debt Waiver Addendum," which was a policy of insurance issued by Defendant CNA National Warranty Corporation and to which the dealer, Thornhill, was a party and which provided in relevant part:

AGREEMENT: In consideration of the purchase price paid, Dealer/Creditor agrees that in the event of the Total Loss of the Vehicle, and subject to all of the terms and conditions of this Addendum, Dealer/Creditor will waive your liability for the difference between the Net Finance Contract Payoff as of the Date of Loss and the Actual Cash Value; Dealer/Creditor will also waive your Primary Automobile Insurance Company deductible not to exceed \$1,000.00; and the total amount of Your liability the Dealer/Creditor will waive will not exceed the Maximum Limit of Payments.

7. Defendant CNA National Warranty Corporation was not licensed to sell insurance at any time by the West Virginia Offices of the Insurance Commissioner.

CLASS ACTION ALLEGATIONS

8. Plaintiff brings this action on her own behalf and on behalf of all other similarly situated individuals pursuant to Rule 23 of the West Virginia Rules of Civil Procedure. The class is presently defined as:

All West Virginia consumers who purchased "gap insurance" offered by CNA National Warranty Corporation and were charged a premium.

9. The requirements of Rule 23 are satisfied as follows:

- a. The class is so numerous that joinder of all members is impracticable;
- b. There are questions of law and fact common to all members of the class;
and,
- c. Plaintiff's claim is typical of those of the class as a whole.

10. Plaintiff has displayed an interest in vindicating the rights of class members, will fairly and adequately protect and represent the interest of the class, and is represented by skillful and knowledgeable counsel. The relief Plaintiff seeks will inure to the benefit of the class generally.

11. Therefore, the common questions of law and fact predominate over individual questions and the class action device is superior to other available methods for the fair and efficient adjudication of the controversy.

Count I – Unlawful Sale of Insurance
(Class and Individual Claim)

12. Plaintiff incorporates the preceding paragraphs by reference.

13. By failing to be licensed to sell the Gap Contract Insurance Policy, CNA National Warranty Corporation violated West Virginia Code § 33-3-1 and was therefore not entitled to collect premiums from any West Virginia consumer.

14. By collecting premiums it was not entitled to recover and selling an insurance product while not licensed to sell such product, CNA National Warranty Corporation violated West Virginia Code § 46A-2-127.

Stipulation

15. With respect to Plaintiff's individual claims, Plaintiff and her counsel do not seek to recover in excess of \$75,000, including an award of attorney's fees, exclusive of costs and interest.

16. With respect to Plaintiff's individual claims, to the extent any remedy is awarded in excess of \$75,000, inclusive of attorney's fees, exclusive of costs and interest, Plaintiff and her counsel stipulate that they are not entitled to recover the excess amount.

17. This stipulation applies regardless of the form of the remedy awarded.

18. Plaintiff agrees to be bound by this stipulation throughout the pendency of this action.


RELIEF SOUGHT

WHEREFORE, Plaintiff prays that she and the class be awarded judgment against Defendant, as follows:

- (a) A declaration that the conduct above is unlawful;
- (b) Actual and compensatory damages;
- (c) A civil penalty for each violation of Chapter 46A, under West Virginia Code §§ 46A-5-101(1) and -106;
- (d) Reasonable attorneys' fees and the costs of this action, under West Virginia Code §§ 46A-5-104 and -106(a);
- (e) Pre- and post-judgment interest;
- (f) Certification of Plaintiff's and all other similarly situated persons' claims under Rule 23 of the West Virginia Rules of Civil Procedure; and
- (g) All other relief the Court deems appropriate.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES.

Plaintiff,
By counsel,


Jonathan R. Marshall (WVSB #10580)
Maigreade B. Burrus (WVSB #12518)
Bailey & Glasser, LLP
209 Capitol Street
Charleston, West Virginia 25301
Telephone: (304) 345-6555
Facsimile: (304) 342-1110
jmarshall@baileyglasser.com
mburrus@baileyglasser.com

Steven S. Wolfe (WVSB #11914)
J. Christopher White (WVSB# 9462)
Wolfe, White & Associates
PO Box 536
Logan, WV 25601
Telephone: (304) 752-7715
Facsimile: (304) 752-7710

IN THE CIRCUIT COURT OF LOGAN COUNTY, WEST VIRGINIA

LORI D. JUSTICE,

**Plaintiff, individually, and on behalf of
a class of similarly-situated persons,**

Civil Action No. 17-c-55

Judge: Buckler


**CNA NATIONAL WARRANTY CORPORATION,
an Arizona foreign corporation,**

Defendant.

Binding Stipulation

Plaintiff and her counsel stipulate by their signatures below that, with respect to Plaintiff's individual claims in this action, they are not seeking and will not in any event seek a recovery in excess of \$75,000, exclusive of costs and interest for Plaintiff's individual claims.

Plaintiff,
By Counsel,


Jonathan R. Marshall (WVSB #10580)
Maigraete B. Burrus (WVSB #12518)
Bailey & Glasser, LLP
209 Capitol Street
Charleston, WV 25301-2205
Telephone: (304) 345-6555
Facsimile: (304) 342-1110

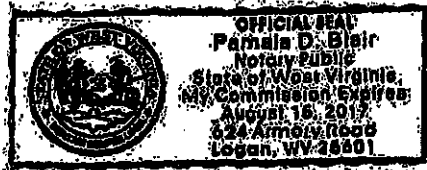
Steven S. Wolfe (WVSB #11914)
J. Christopher White (WVSB #9462)
Wolfe, White & Associates
PO Box 536
Logan, WV 25601
Telephone: (304) 752-7715
Facsimile: (304) 752-7710


Stipulated as stated above:


Lori D. Justice

Taken, subscribed and sworn to before the undersigned authority, this 30th day of January, 2017.

My commission expires: August 15, 2017




Pamela D. Blair
Notary Public



**Service of Process
Transmittal**

02/22/2017

CT Log Number 530736780

TO: Barbara Hyman
CNA Financial Corporation
333 South Wabash Avenue 435
Chicago, IL 60604

RE: Process Served in Arizona

FOR: CNA National Warranty Corporation (Domestic State: AZ)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Lprl D. Justice, Pltf. vs. CNA National Warranty Corporation, etc., Dft.
DOCUMENT(S) SERVED: Summons, Complaint, Attachment(s)
COURT/AGENCY: Circuit Court of Logan County, WV
Case # 17C55
NATURE OF ACTION: Insurance Litigation
ON WHOM PROCESS WAS SERVED: C T Corporation System, Phoenix, AZ
DATE AND HOUR OF SERVICE: By Process Server on 02/22/2017 at 15:24
JURISDICTION SERVED: Arizona
APPEARANCE OR ANSWER DUE: Within 30 days after service, exclusive of the day of service
ATTORNEY(S) / SENDER(S): Malgreade B. Burrus
Bailey & Glasser, LLP
209 Capitol Street
Charleston, WV 25301
304-345-6555
ACTION ITEMS: CT has retained the current log, Retain Date: 02/23/2017, Expected Purge Date:
02/28/2017
Image SOP
Email Notification, Barbara Hyman barbara.hyman@cna.com
SIGNED: C T Corporation System
ADDRESS: 3800 N Central Avenue
Suite 460
Phoenix, AZ 85012
TELEPHONE: 602-248-1145

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